

**Senate File 212 - Introduced**

SENATE FILE 212

BY GREEN

**A BILL FOR**

1 An Act prohibiting discrimination against adoption and foster  
2 care providers, or adoptive and foster parents, based on  
3 religious belief.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1.   NEW SECTION.   216G.1   Definitions.

2     For purposes of this chapter and unless otherwise required  
3 by context:

4     1.   *"Adoption or foster care"* or *"adoption or foster care*  
5 *service"* means social services provided to or on behalf of  
6 children, including any of the following:

7       *a.*   Promoting foster parenting.

8       *b.*   Providing foster homes, residential care, group homes, or  
9 temporary group shelters for children.

10      *c.*   Recruiting foster parents.

11      *d.*   Placing children in foster homes.

12      *e.*   Licensing or certifying foster homes.

13      *f.*   Promoting adoption or recruiting adoptive parents.

14      *g.*   Assisting adoptions or supporting adoptive families.

15      *h.*   Performing or assisting home studies.

16      *i.*   Assisting kinship guardianships or kinship caregivers.

17      *j.*   Providing family preservation services.

18      *k.*   Providing family support services.

19     2.   *"Discriminatory action"* means any action taken by  
20 the state government to do any of the following to a person  
21 referred to in section 216G.2, on the basis described in  
22 section 216G.2:

23       *a.*   Alter the tax treatment of, or cause a tax, penalty,  
24 or payment to be assessed against, or deny, delay, revoke, or  
25 otherwise make unavailable an exemption from taxation of, the  
26 person.

27       *b.*   Disallow, deny, or otherwise make unavailable a deduction  
28 for state tax purposes of a charitable contribution made to or  
29 by the person.

30       *c.*   Withhold, reduce, exclude, terminate, materially alter  
31 the terms or conditions of, or otherwise make unavailable  
32 or deny a state grant, contract, subcontract, cooperative  
33 agreement, guaranty, loan, scholarship, or other similar  
34 benefit from or to the person.

35       *d.*   Withhold, reduce, exclude, terminate, adversely alter the

1 terms or conditions of, or otherwise make unavailable or deny  
2 an entitlement or benefit under a state benefit program from  
3 or to the person.

4 e. Impose, levy, or assess a monetary fine, fee, penalty,  
5 damages award, or injunction against the person.

6 f. Withhold, reduce, exclude, terminate, materially alter  
7 the terms or conditions of, or otherwise make unavailable or  
8 deny a license, certification, accreditation, custody award  
9 or agreement, diploma, grade, recognition, or other similar  
10 benefit, position, or status from or to the person.

11 g. Refuse to hire or promote, force to resign, fire, demote,  
12 sanction, discipline, adversely alter the terms or conditions  
13 of employment, or retaliate or take other adverse employment  
14 action against the person if employed or commissioned by the  
15 state government.

16 3. "*State benefit program*" means any program administered,  
17 controlled, or funded by the state government, or by any agent  
18 on behalf of the state government, providing cash, payments,  
19 grants, contracts, loans, or in-kind assistance.

20 4. "*State government*" means any of the following:

21 a. The state or a political subdivision of the state.

22 b. Any agency of the state or of a political subdivision of  
23 the state, including a department, bureau, board, commission,  
24 council, or court.

25 c. Any city, county, township, or other municipal government  
26 in the state.

27 d. Any person acting under color of state law.

28 e. Any private person suing under or attempting to enforce  
29 a law, rule, or regulation adopted by the state or a political  
30 subdivision of the state.

31 Sec. 2. NEW SECTION. 216G.2 **Protections.**

32 1. The state government shall not take any discriminatory  
33 action against a person that advertises, provides, or  
34 facilitates adoption or foster care, wholly or partially on  
35 the basis that the person has provided or declined to provide

1 any adoption or foster care service, or related service, based  
2 on or in a manner consistent with a sincerely held religious  
3 belief.

4     2. The state government shall not take any discriminatory  
5 action against a person who the state grants custody of a  
6 foster or adoptive child, or a person who seeks from the state  
7 custody of a foster or adoptive child, wholly or partially on  
8 the basis that the person guides, instructs, or raises a child,  
9 or intends to guide, instruct, or raise a child, based on or  
10 in a manner consistent with a sincerely held religious belief,  
11 provided, however, that the state government may consider  
12 whether a person shares the same religion or faith tradition as  
13 a foster or adoptive child when considering placement of the  
14 child in order to prioritize placement with a person of the  
15 same religion or faith tradition.

16     Sec. 3. NEW SECTION.   **216G.3 Required considerations.**

17     1. The state government shall consider accredited,  
18 licensed, or certified any person that advertises, provides,  
19 or facilitates adoption or foster care that would otherwise  
20 be accredited, licensed, or certified, respectively, for any  
21 purposes under state law but for a determination against  
22 such person wholly or partially on the basis that the person  
23 believes, maintains policies and procedures, or acts in  
24 accordance with a sincerely held religious belief.

25     2. The state government shall consider any person that  
26 advertises, provides, or facilitates adoption or foster care  
27 for a contract, grant, or agreement that would otherwise be  
28 considered for a contract, grant, or agreement but for a  
29 determination against such person wholly or partially on the  
30 basis that the person maintains policies and procedures, or  
31 acts in accordance with a sincerely held religious belief.

32     Sec. 4. NEW SECTION.   **216G.4 Claim or defense against state**  
33 **action.**

34     1. A person may assert a violation of this chapter as  
35 a claim against the state government in any judicial or

1 administrative proceeding or as a defense in any judicial  
2 or administrative proceeding without regard to whether  
3 the proceeding is brought by or in the name of the state  
4 government, any private person, or any other party.

5 2. Notwithstanding any other provision of law to the  
6 contrary, an action under this chapter may be commenced, and  
7 relief may be granted, without regard to whether the person  
8 commencing the action has sought or exhausted available  
9 administrative remedies.

10 Sec. 5. NEW SECTION. 216G.5 Remedies.

11 A person who successfully asserts a claim or defense under  
12 this chapter may recover declaratory relief, injunctive relief  
13 to prevent or remedy a violation of this chapter or the effects  
14 of such a violation, compensatory damages, reasonable attorney  
15 fees and costs, and any other appropriate relief. Only  
16 declaratory relief and injunctive relief shall be available  
17 against a private person not acting under color of state law  
18 upon a successful assertion of a claim or defense under this  
19 chapter.

20 Sec. 6. NEW SECTION. 216G.6 Immunity waived.

21 Sovereign, governmental, and qualified immunities to suit  
22 and from liability are waived and abolished for purposes of  
23 liability created by this chapter and a person may sue the  
24 state government, except state courts, for damages allowed by  
25 section 216G.5.

26 Sec. 7. NEW SECTION. 216G.7 Limitation period.

27 A person must bring an action to assert a claim under this  
28 chapter not later than two years after the date the person knew  
29 or should have known that a discriminatory action was taken  
30 against that person.

31 Sec. 8. NEW SECTION. 216G.8 Rules of construction.

32 1. This chapter shall be construed in favor of a broad  
33 protection of free exercise of religious beliefs, to the  
34 maximum extent permitted by terms of this chapter and the  
35 Constitution of the State of Iowa and the Constitution of the

1 United States.

2     2. The protection of free exercise of religious beliefs  
3 afforded by this chapter are in addition to the protections  
4 provided under federal law, state law, and the Constitution of  
5 the State of Iowa and the Constitution of the United States.  
6 Nothing in this chapter shall be construed to preempt or repeal  
7 any state or local law that is equally or more protective of  
8 free exercise of religious beliefs, to narrow the meaning or  
9 application of any state or local law protecting free exercise  
10 of religious beliefs, or to prevent the state government from  
11 providing, either directly or through an individual or entity  
12 not seeking protection under this chapter, any benefit or  
13 service authorized under state law.

14     3. This chapter applies to and, in cases of conflict,  
15 supersedes any contrary provision of law that impinges upon  
16 the free exercise of religious beliefs and moral convictions  
17 protected by this chapter, unless a conflicting provision is  
18 expressly made exempt from the application of this chapter.  
19 This chapter also applies to and, in cases of conflict,  
20 supersedes any ordinance, rule, regulation, order, opinion,  
21 decision, practice, or other exercise of the state government's  
22 authority that impinges on the free exercise of religious  
23 beliefs protected by this chapter.

24                                   EXPLANATION

25                   The inclusion of this explanation does not constitute agreement with  
26                   the explanation's substance by the members of the general assembly.

27     This bill prohibits discrimination against adoption and  
28 foster care providers, or adoptive and foster parents, based on  
29 religious belief.

30     The bill prohibits state government, as defined in the  
31 bill, from taking any discriminatory action, as defined in the  
32 bill, against adoption and foster care providers, or adoptive  
33 and foster parents, based on their sincerely held religious  
34 beliefs. The bill allows a person to assert a claim or defense  
35 against the state government for violating the bill and allows

1 for injunctive relief, damages, and attorney fees and costs.

2     The bill waives immunities and allows state government to be  
3 sued for purposes of the bill, except for state courts. The  
4 bill provides a two-year statute of limitation from the date  
5 the person knew or should have known that a discriminatory  
6 action was taken against the person.

7     The bill specifies how the bill should be construed and  
8 provides that the bill supersedes other law in case of a  
9 conflict.